

federal bureaucracy. Answerable to a Congress that *rewards* poor budgeting, the bureaucrats of the “fourth branch” have no incentive to prioritize risks according to their probabilities. Under the Trump administration, official “anti-science” reached its apogee. Lewis makes passing mention of some of the ways President Trump and his gofers grossly mishandled the pandemic. Of course, Americans’ stubborn individualism—at times a gift, at others a curse—continues to incline many, especially in so-called Trump Country, to forgo vaccination and to ignore various preventive measures, including mask-wearing indoors.

The solution to official incompetence, especially given Americans’ longstanding aversion to governmental heavy-handedness—at least with respect to their civil liberties—is *official competence*. Political theorists continue to grapple with how best to achieve this. Lewis’s suggestion, that the worst-case scenario is the best measure for government’s response to an actual or impending crisis, is implausible. In the long run, it would cost Americans—in economic and social terms—far more than all but the most catastrophic natural disaster ever could. The American people are exhausted from the half-hearted response to the Covid-19 crisis. Imagine how fed up they would be if the most pessimistic voices get everything they want every single time.

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### **Antitrust: Taking on Monopoly Power from the Gilded Age to the Digital Age**

Amy Klobuchar

New York: Knopf, 2021, 588 pp.

Antitrust law is having its moment. As big tech companies thrived during the pandemic, public criticism of them has grown. In an era where bipartisan agreement is rare, one of the few things politicians can agree on is that big tech companies are a problem. In June 2021, the House Judiciary Committee announced the introduction of five bipartisan bills that aim to chip away at big tech’s power.

The Biden administration has also signaled a possibility of an antitrust renaissance. President Biden appointed Lina Khan to the Federal Trade Commission (FTC). A 32-year-old Columbia law

professor, Khan gained national attention while in law school for her article on Amazon and antitrust law. Biden also picked Tim Wu, another critic of big tech, to join the White House National Economic Council. Those appointments as well as public sentiment indicate that antitrust law is poised for significant changes.

Thus, it is no surprise then that senators with presidential aspirations have waded into the antitrust debate. While this also applies to Senator Josh Hawley (R-MO) and his recently released book *The Tyranny of Big Tech*, Senator Amy Klobuchar of Minnesota takes on the issue from the Democrat side in *Antitrust: Taking on Monopoly Power From the Gilded Age to the Digital Age*.

Klobuchar's main aim for her book is to generate public interest in antitrust law. She recounts interactions with her constituents and how many of them recognize that something is seriously wrong with country, but are not quite sure what. She contends that many of today's societal problems are a result of lax antitrust laws and their enforcement. She also argues that, with updated and more robustly enforced laws, these problems would be lessened, if not resolved. Thoroughly researched and containing dozens of political cartoons, the book is an ambitious contribution to the current antitrust discourse.

The book is at its best in the first four chapters as she weaves in her family's history with the history of antitrust law. In the introduction, Klobuchar explains why she is writing this book and how she became involved in fighting monopolies. Drugmaker Ovation had control of a drug used to treat babies with heart defects. In 2006, Ovation—through a merger—secured control of the only other drug used to treat that condition. After acquiring the drug, the price per treatment went from \$78 to \$1,614. To Klobuchar, the case was a slam dunk. The FTC sued, but both the district court and the Court of Appeals for the Eighth Circuit concluded there was no antitrust violation. This experience convinced Klobuchar that the country's current approach to antitrust needs to be changed.

Klobuchar then explains how the seeds for her interest in antitrust law were planted at an early age when her family would drive by the mansion of the 19th-century railroad baron James J. Hill. Klobuchar's grandfather was an iron ore miner and, because Hill needed "the iron ore and the steel to create his wealth," her family helped build the house.

It was railroad barons like Hill who helped spark the populist movement against monopolies as farmers rebelled against railroads, accusing them of exploitative practices. The Granger Movement, as it was called, spread from the Midwest to Washington, D.C., culminating in the Sherman Act of 1890, which was enacted with almost unanimous support in both the House and Senate.

Following the Sherman Act, President Theodore Roosevelt—the hero of Klobuchar’s story—emerged. Earning a reputation as a “trust buster,” Roosevelt led the charge against the trusts. Klobuchar argues that Roosevelt recognized that voters disliked the trusts as they had acquired too much power over the workers. In her view, the monopolists’ exploitive behavior “is what eventually led to the downfall of the trusts.” President William Taft expanded Roosevelt’s efforts, with the two of them bringing a total of 120 suits against monopolies from 1901 to 1914.

In the following decades, antitrust law went from the public to the courtroom. Klobuchar laments how antitrust law became an academic pursuit, especially directing her ire at Richard Bork. As a part of the conservative revolution in the 1980s, Bork argued that the original intent of antitrust laws was to look to whether consumers were harmed. Influenced by Bork, President Ronald Reagan gutted the FTC and appointed judges who made “antitrust enforcement much more difficult.” Bork’s consumer welfare standard has dominated American antitrust policy ever since.

Klobuchar’s account of antitrust law serves two points. First, she argues that antitrust law has gone away from its original aim of focusing on the exploitation of workers. Klobuchar points to both the Granger Movement and Pullman Strike—as well as the presidential campaigns of William Jennings Bryan and Theodore Roosevelt—to contend that labor should be at the forefront of antitrust analysis and not simply consumer prices. Second, she uses the development of antitrust law to show that markets are shaped by people’s conscious effort—arguing that our current system can also change.

In the last three chapters, Klobuchar describes how to fix the monopoly problem with 25 policy ideas. Many of these suggestions track the legislative proposals that have been introduced by her and other politicians in recent months. She wants to appoint “better” judges, change the evidentiary standards for mergers, and add more

resources to the federal agencies charged with applying antitrust laws. And she also adds, we should stop using the word antitrust.

With experience as a lawyer and as the chair of the Senate Judiciary Subcommittee on Antitrust, she certainly has the experience to propose solutions. However, it is here that the book begins to lose steam, and some of the solutions appear disconnected from the problems she raises.

For Klobuchar, lax antitrust enforcement represents a threat to democracy. She argues that monopolies depress wages, and urges a \$15 minimum wage and increase in small businesses. She also views a constitutional amendment to overturn *Citizens United*, new voting rights legislation, and gerrymandering reform as critical to taking power away from corporations and returning it to the people. But it seems paradoxical to suggest that the best way to ensure freedom is by curbing free speech and increasing government intervention.

And it is also hard to believe that her proposals would have a meaningful effect on the big tech companies that frequently draw the bulk of the antitrust criticisms. For example, in June, an FTC lawsuit against Facebook was dismissed because the FTC failed to establish that Facebook possesses market power. While appointing judges who are more likely to enforce antitrust laws would help, less than friendly judges will still hear cases. Additionally, proposals such as a \$15 minimum wage seem likely to benefit large companies. Amazon is currently advocating for a \$15 minimum wage, partly because it knows that some small businesses won't be able to afford it.

But what really plagues Klobuchar's suggestions is the potential for ad hoc decisions that comes from focusing on preserving a competitive process and market structure. It is one thing to say antitrust law should look beyond prices, but it is another to say that we should move to a standard that simply looks at how big a company is. After all, it makes sense that big companies are able to grow because of economies of scale. And, while this might be bad for competitors, it often means lower prices for consumers. Businesses should not be propped up just so that big companies have competition.

Klobuchar understands that antitrust reform requires both creative solutions and public support. That is what makes it even more

disappointing she does not address occupational licensing reform or deregulation, which could help bolster competition in several markets. Nonetheless, Klobuchar's book provides a thorough examination of where antitrust law has been, where it is now, and where it could go.

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**The Agitators: Three Friends Who Fought for Abolition and Women's Rights**

Dorothy Wickenden

New York: Scribner, 2021, 392 pp.

As a matter of personal preference, I tend to have a certain level of disdain for the “great man” approach to history. The flaw of viewing events solely through a testosterone-charged male gaze usually consists of reducing the world down to the cutthroat fields of absolutes—politics and war—leaving out the nuances of life in favor of a simplistic world of power. The affairs of charismatic generals and quick-witted politicians are prioritized over the experiences of all other individuals, groups, and perspectives. At its worst, this approach to history runs the risk of representing the world only through the eyes of the powerful elite, giving a skewed picture of the past that excludes most of the population of the planet from the story of how we came to be what we are today.

Crushed under a variety of despots in their lives, before the advent of the 20th century (and even during), women's voices and achievements have been consistently downplayed, marginalized, and even outright opposed by critics across the centuries. Women's near-total exclusion from educational opportunities, professional ventures, and politics means that women's contributions were easily obscured and diluted. Akin to the underground railroad of the abolitionists, the secrecy under which women had to operate to involve themselves in what was deemed “the affairs of men” obscures their contributions. In her newest book, *The Agitators: Three Friends Who Fought for Abolition and Women's Rights*, Dorothy Wickenden attempts to draw attention to three figures involved in both the abolitionist and the women's rights movements.